CF 1004 (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WP NO. 3442 /2003

PETITIONER

Jatangiri, aged about 85 years, son of Shri Puran Giri, resident of village – Dadargaon, Pithora, Tah. Mahasamund, Distt. Mahasamund. (C.G.)

Through : Power of Attorney, Lakhan Giri, son of Shri Jatangiri, aged about 48 years resident of village Dadargaon, Pithora, Tah Mahasamund, Distt. Mahasamund (Chhattisgarh)

P. R. No. 3269/03
Presented by Shri AJ Agrawal
dated 16.12.03

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through : Secretary, Department of Revenue, D.K.S. Bhawan, Raipur (Chhattisgarh).
2. Board of Revenue, Government of Chhattisgarh, Circuit Court, Raipur (Chhattisgarh)
3. The Collector, Mahasamund (CG)
4. The Sub Divisional officer (Revenue), Mahasamund (CG)
5. The Additional Tahsildar, Tah. Pithora, distt. Mahasamund (Cg)
6. The Settlement Officer, Raipur (Chhattisgarh).
7. The Assistant Settlement Officer, Simga, Distt. Raipur (Chhattisgarh).
8. Ramji son of Jhaduram, resident of village Dadargaon, P.H.N. 19, Board of Revenue Pithora, Tah and Distt. Mahasamund (CG)
9. Raghunath Pratap singh, son of Shri Madan Singh, resident of

उपायुक्त एस.के. मुखर्जी बिलासपुर (छ.ग.) 1571

RECEIVED-COPY 16/12/03 Clerk to A. G. Bilaspur

(48)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No.3442 of 2003

Jatangini

Versus

State of Chhattisgarh and others

POST FOR ORDER ON 21st JANUARY, 2004

Sd/-
L.C.BHADOO
Judge

20.01.2004

(49)

HIGH COURT OF JUDICATURE, CHHATTISGARH AT BILASPUR

Writ Petition No. 3442 of 2003

Jatangiri

Versus

State of Chhattisgarh and others

Present:

Shri Asgar Ali, Counsel for the petitioner.

ORDER

(Passed on 21.1.4 January, 2004)

As per L.C. Bhadoo J.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India being aggrieved by the order dated 16-7-2003, Annexure-P/5, passed by the Board of Revenue by which the Board of Revenue dismissed the appeal of the petitioner filed against the order of Collector dated 14-1-2003.

2. Brief facts leading to filing of this petition are that the petitioner is the resident of village Dadargaon, Tehsil and District Mahasamund and is a Bhoomiswami of Khasra No. 97, rakba 1.222 hectares. Under the settlement proceeding Khasra No.97 was re-numbered in 7 new khasras and in that process as per the allegations of the petitioner 0.11 hectares of the petitioner's land was recorded as government land specially which was under the water.

3. The petitioner made an application before respondent No.7 and the decision was given in his favour on 1-3-1997 as per Annexure-P/1. An appeal was filed by respondents 8 and 9 before the Settlement Officer. The Settlement Officer set-aside the order passed by respondent No.7 and

forwarded the matter to the Additional Tehsildar, Pithora for hearing the parties and deciding the matter.

4. The Additional Tehsildar conducted an enquiry and held that Khasra No.163/1, rakba 0.53 hectares is government land and Khasra NO.163/2, rakba 0.11 hectares belongs to the petitioner and for passing the orders the Additional Tehsildar forwarded the matter to the Sub Divisional Officer. The Sub Divisional Officer vide order dated 12-7-2002 held that on account of change of Khasra No.97 converting into seven new khasras the petitioner's land has exceeded by 2.23 acres land which should be recorded as government, which is not disputed and along with that new Khasra No.163/2, rakba 0.11 hectares should also be recorded as government land. The order is Annexure-P/3.

5. The petitioner preferred an appeal before the Collector and the same was dismissed. The Revenue Board also dismissed the appeal.

6. I have heard Mr. Asgar Ali, learned counsel for the petitioner.

7. The learned counsel for the petitioner submitted that the orders of the Board of Revenue, Collector and the S.D.O. are erroneous and they have wrongly held that the land in question is a government land.

8. I have perused the orders. A perusal of the order Annexure-P/3 dated 12-7-2002 passed by the Sub Divisional Officer reveals that seven new khasra numbers were given to Khasra No.97 and on account of that there was some difference occurred in the land, as the original Khasra No.97 was of 1.222 hectares, whereas in the settlement proceeding that khasra number was converted into seven new khasras and the land of seven new khasras has been recorded as 2.12 hectares, thereby the land of the petitioner has exceeded by 2 acre 23 decimal. In para 4 of the order it is recorded that adjacent to the original Khasra No.97, Khasra Nos. 98 and 99 were there which was a Government forest land in which big bushes were standing and by adding some piece of land from Khasra Nos.98 and 99, Khasra No.97 has been

converted into seven new khasras and on account of that the area has exceeded by 2 acre 23 decimal.

9. It has been further observed that the Revenue Inspector has reported in his inspection report that the following Khasra numbers were recorded in the revenue records:- 165/2, 165/3, 167/2, 168/2, 169/2, 170/2 and 175/1 and forest land of big bushes cannot be given to anyone. Since, the forest land of big bushes has been added in the old Khasra No.97 thereby the land of the petitioner has been exceeded by 2 acres 23 decimal. Same view has been taken by the Collector and the Revenue Board whereas, the learned counsel for the petitioner submitted that the finding is erroneous and contrary to the factual position on the ground.

10. In view of the above facts, I find that the disputed facts are involved in this matter. As per the orders of the S.D.O., Collector and the Board of Revenue on account of change of Khasra Number some forest land of big bushes 2 acres 23 decimal was wrongly added to the land of the petitioner and the same was government land, therefore, that should be corrected.

11. In view of the above disputed facts, the matter cannot be enquired into and no enquiry can be made in the writ jurisdiction, therefore, if the petitioner has any grievance against the orders passed by the Board of Revenue, Collector and the Sub Divisional Officer the proper remedy for him was to approach the civil Court. If he is so advised he can approach the civil Court.

12. With the aforesaid observations, the writ petition stands disposed of.

Sd/-
L.C.BHADOO
Judge

Barve